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One Hundred Eighth Congress
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June 14, 2004

The Honorable Clark Kent Ervin
Inspector General
Department of Homeland Security

Dear Mr. Ervin:

I am deeply concerned about reports my staff are receiving from various personnel at the Bureau of Immigration and Customs Enforcement (ICE) about significant problems associated with the unit's budget and financial systems. We all are aware of the much publicized suspected \$1.2 billion budget shortfall which led to a hiring freeze involving ICE. Although later explained as an accounting error, this event raised very serious questions about whether the office actually has control over its budget.

More recently, my staff have received indications that ICE continues to face challenges with its budget and financial systems that simply do not work. I understand that deficiencies in the ICE Federal Financial Management System (FFMS) are so severe that they place the bureau at risk of violating the Anti-Deficiency Act, a key federal law which restricts agencies from over-obligating appropriated funds. In the past, violations of the Act have resulted in the demotion and removal of high-ranking federal officials and carry criminal penalties of fines up to \$5,000, or a maximum 2 years imprisonment, or both. Such a serious violation within ICE could serve as a source of extreme embarrassment for the department at large, a situation that DHS cannot afford so early in its transformation.

As you know, the Anti-Deficiency Act outlines very specific prohibitions. Generally, under the law, agencies cannot (1) spend beyond the amount available in an appropriation or fund unless authorized by law, (2) involve the government in any contract or other obligation for payment of money for any purpose in advance of appropriations, unless the authorized by law, and (3) accept voluntary services, or employ personal services in excess of that authorized by law, except in cases of certain emergencies. The Act further prohibits agencies from spending or obligating funds in excess of amounts permitted by regulations.

My staff interviewed ICE staff at DHS headquarters and in three large and important field offices. These conversations revealed a severe lack of confidence that the FFMS is providing decision-makers with accurate, useful, and timely information. As a result, the ICE staff have told us that their units run the risk of over spending their appropriations by the end of fiscal year

2004 and violating the Anti-Deficiency Act. Consider the following concerns expressed by the staff stemming from their inability to pinpoint the amount of funds available for important functions due to problems with the FFMS and budget-related matters:

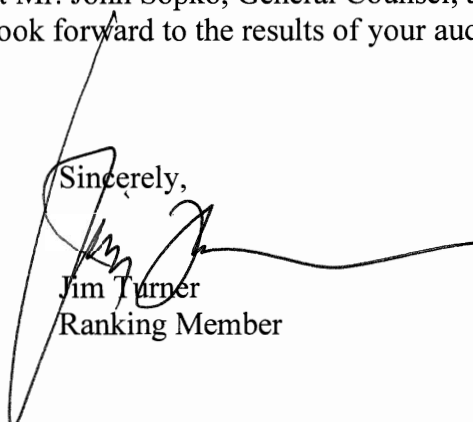
- Problems with financial systems have crippled the ability of managers and staff to fulfill their responsibilities. For example, travel data bases and other functions have been shut down for days because ICE had temporarily run out of money. ICE has also been unable to notify temporary employees as to whether they would be able to employ them on a permanent basis.
- Funds are being shifted to ICE from other parts of the Border and Transportation Security Directorate on a daily basis to avoid budget shortfalls and handle expenditures. These short-term “fixes” are not addressing ICE’s systemic budget difficulties.
- Pilots have gone for months without knowing when, or if, they would acquire fuel, parts, and ammunition for their aircraft. Some are concerned that their offices may run out of money for critical repairs.
- Existing procurements are hard to track. As a result, financial staff are not able to keep track of how much they have available to spend on contracts. They must go directly to contractors to obtain that information.
- FFMS does not contain consolidated financial information. Staff need to run multiple reports and combine information manually to get a full picture of how much to spend. This leads to uncertainty about the amount of money available for travel, not to mention funds for vehicle and inventory procurements.
- Some vendors are not getting paid promptly because the FFMS is not properly equipped for vendor payments. ICE has not adjusted the system to correct these difficulties.

The concerns about the FFMS are not new. General Accounting Office (GAO) reports exposed problems with the system when it was used at the former Immigration and Naturalization Service. Apparently, many of the issues GAO cited were not resolved during the system’s realignment to ICE. It is puzzling to me that the department would chose to stay with a system that was so widely recognized as inherently flawed. Unless department has well-integrated and reliable financial systems that enable managers to administer programs and control spending, it cannot efficiently fulfill its mission of protecting the homeland.

I therefore request that you initiate an audit to review the FFMS system and, more importantly, examine larger budget problems at ICE—particularly any violations of the Anti-Deficiency Act. It is imperative that you complete your audit by November of this year so that its results can be used to improve the financial situation at ICE and make bureau managers better stewards of taxpayer dollars.

As always, I stand ready to work with you in any way possible. Should you or your staff have questions, do not hesitate to contact Mr. John Sopko, General Counsel, at 226-8833 or Mr. Glenn Davis at 226-8851 of my staff. I look forward to the results of your audit.

Sincerely,



Jim Turner
Ranking Member